IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(***Special Original Jurisdiction***)

THURSDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO: 12804 of 2005

Between:

Rajana Appalaraju S/o.Apparao,
Atchutapuram Mandal, Visakhapatam Dist.

..... PETITIONER

A N D

The Special Deputy Collector, (Land Acquisition) A.P.I.I.C. Marripalem,
Visakhapatnam.

..... RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction particularly in the nature of writ of Mandamus declaring the inaction on the part of the respondent in not referring the Rc.No.Rc.No.44/2001/R1-I to the Civil Court U/s. 30 and 31 of Land Acquisition Act by considering the claim of the petitioner as directed by this Hon'ble court in WP.No.2879/2003 dt.18-2-2003 is highly arbitrary, unjust and is opposed to principles of natural justice, and violative of Art.14 of the Constitution of India and also contrary to the directions of this Hon'ble court and consequently direct the respondent to refer the matter to the civil court forthwith in the interest of justice and in the circumstances of the case and to pass such other order or orders as this Hon'ble court may deem fit and proper.

Counsel for the Petitioner: MRP.RAJASEKHAR

Counsel for the Respondent: GP FOR LAND ACQUISITION

The Court at the stage of admission made the following: (order follows 2nd page)

O R D E R:

This writ petition is filed to declare the inaction on the part of the respondent in not referring RC.No.44/20001/R1-1 to the Civil Court under Section 30 and 31 of the Land Acquisition Act by considering the claim of the petitioner as directed by this court in WP.No.2879 of 2003 dated 18-2-2003 is highly arbitrary, unjust and is opposed to the principles of natural justice and violative of Article 14 of the Constitution of India and consequently direct the respondent to refer the matter to the civil court forth with in the interest of justice.

The petitioner submits that he is entitled to 1/6th share in survey nos. 47/17, 47/13, 47/3, 43/20, 43/2(b), 43/23, 43/8, 49/5, 12/4(a), 23/6 (b), 24/1 (f), 25/1(b), 25/2, 37/1, 37/6 (a), 38/21 (a) and 38/20 along with Rajanaappa Rao and four others and the said lands are his joint family lands. He also filed OS.No.327 of 2004 on the file of the Court of Principal Junior Civil Judge,Yelamanchili, seeking partition and separate possession and the said suit pending.

The petitioner submits that some of the above said landed properties were acquired under the provisions of Land Acquisition Act and the respondent got published Form No.VII notice under section 9 (3) and Section 10 of Land Acquisition Act in RC.No.44/2001/R1-1, RC.No.17/2002 and RC.No.18/2002 in Eenadu Telugu daily, dated 23-9-2002 calling for objections in writing, the nature of interest in the lands

proposed to be acquired for public purpose. The petitioner who got interest in the lands got issued a registered notice on 21-11-2002 after seeing the paper publication stating that he is entitled to the above share with other joint family members. In spite of issuance of notice, the respondent has not given any opportunity to the petitioner to file his claim-statement. The respondent is bound to refer the mater under section 30 and 31 of the Land Acquisition Act to the civil court. Questioning the inaction of the respondent, he filed WP.No.2879 of 2003 before this court. On 18-2-2003 this court disposed of WP.No.2879 of 2003 directing the petitioner to file his claim-statement before the respondent and on receipt of the same the Land Acquisition Officer shall consider the same and pas appropriate orders. It is further directed by this court that the respondent shall not disburse the amount for two months. Pursuant to the said direction, he filed claim-statement but the respondent has not considered the same till date. However, the respondent passed the award but did not disburse the amount. He made several requests for considering the claim-statement but the respondent failed to consider and take any action.

While things stood thus, the other share holders are insisting the respondent to disburse the amount behind the back of the petitioner and his name was not included in the notification and the petitioner got his legitimate share in the lands proposed to be acquired and that he also filed a suit seeking partition and possession by impleading the respondent as seventh defendant in the said suit. Therefore, he filed the present writ petition for the inaction on the part of the respondent in referring the matter to the civil court.

After hearing the learned counsel for the petitioner, it is pertinent to note that as directed by this court in WP.No.2879 of 2003 there is no claim-petition filed by the petitioner. Moreover, the petitioner filed the present writ petition after a lapse of two years that too without complying the above directions passed by this court. The petitioner is not diligent enough and he is lethargic in complying the above directions. In view of the above circumstances, the present writ petition cannot be entertained in the absence of non-compliance of the above directions. The writ petition fails and is liable to be dismissed. However, it is left open for the petitioner to file his claim-statement before the concerned authority.

In the result, the writ petition is accordingly dismissed at the admission stage. However, there shall be no order as to costs.

JUNE16th, 2005. ----------

I S L. ELIPE DHARMA RAO , J.

To

1 The Special Deputy Collector, (Land Acquisition) A.P.I.I.C.

Marripalem, Visakhapatnam, Visakhapatnam district.

2 Two C.Cs. to G.P. for Land Acquisition,

High Court Buildings, High Court of A.P., Hyderabad (OUT)

3 1 CC to MRRAJASEKHAR

4 Two CD Copies.